

40-2-101. Title.

This chapter is known as the "Coal Mine Safety Act."

Enacted by Chapter 113, 2008 General Session

40-2-102. Definitions.

As used in this chapter:

(1) "Adverse action" means to take any of the following actions against a person in a manner that affects the person's employment or contractual relationships:

- (a) discharge the person;
- (b) threaten the person;
- (c) coerce the person;
- (d) intimidate the person; or
- (e) discriminate against the person, including to discriminate in:
 - (i) compensation;
 - (ii) terms;
 - (iii) conditions;
 - (iv) location;
 - (v) rights;
 - (vi) immunities;
 - (vii) promotions; or
 - (viii) privileges.

(2) "Coal mine" means:

(a) the following used in extracting coal from its natural deposits in the earth by any means or method:

- (i) the land;
- (ii) a structure;
- (iii) a facility;
- (iv) machinery;
- (v) a tool;
- (vi) equipment;
- (vii) a shaft;
- (viii) a slope;
- (ix) a tunnel;
- (x) an excavation; and
- (xi) other property; and
- (b) the work of preparing extracted coal, including a coal preparation facility.

(3) "Commission" means the Labor Commission created in Section 34A-1-103.

(4) "Commissioner" means the commissioner appointed under Section 34A-1-201.

(5) "Council" means the Mine Safety Technical Advisory Council created in Section 40-2-203.

(6) "Director" means the director of the Utah Office of Coal Mine Safety appointed under Section 40-2-202.

(7) "Major coal mine accident" means any of the following at a coal mine located in Utah:

- (a) a mine explosion;
- (b) a mine fire;
- (c) the flooding of a mine;
- (d) a mine collapse; or
- (e) the accidental death of an individual at a mine.
- (8) "Mine Safety and Health Administration" means the federal Mine Safety and Health Administration within the United States Department of Labor.
- (9) "Office" means the Utah Office of Coal Mine Safety created in Section 40-2-201.
- (10) "Panel" means the Coal Miner Certification Panel created in Section 40-2-204.
- (11) "Unsafe condition" means a danger that reasonably could be expected to cause serious harm to a person or property.

Enacted by Chapter 113, 2008 General Session

40-2-103. Scope and administration of chapter.

- (1) This chapter applies to any coal mine located in the state.
- (2) The commission:
 - (a) shall administer this chapter with the assistance of the office; and
 - (b) has jurisdiction over a coal mine in this state as set forth in this chapter.

Enacted by Chapter 113, 2008 General Session

40-2-104. Rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules necessary to implement this chapter.

Renumbered and Amended by Chapter 113, 2008 General Session
Amended by Chapter 382, 2008 General Session

40-2-201. Utah Office of Coal Mine Safety created.

- (1) There is created within the commission the "Utah Office of Coal Mine Safety."
- (2) The office, under the direction of the commissioner, shall assist the commission in administering this chapter.

Enacted by Chapter 113, 2008 General Session

40-2-202. Appointment of director.

- (1) The director is the chief officer of the office and serves as the executive and administrative head of the office.
- (2) (a) The commissioner shall appoint the director.
- (b) The director may be removed from that position at the will of the commissioner.
- (3) The director shall receive compensation as provided by Title 67, Chapter 19,

Utah State Personnel Management Act.

(4) The director shall be experienced in administration and possess such additional qualifications as determined by the commissioner.

Enacted by Chapter 113, 2008 General Session

40-2-203. Mine Safety Technical Advisory Council created -- Duties.

(1) Within the office there is created the "Mine Safety Technical Advisory Council" consisting of 13 voting members and five nonvoting members as provided in this section.

(2) (a) The commissioner shall appoint the voting members of the council as follows:

- (i) one individual who represents a coal miner union;
- (ii) two individuals with coal mining experience;
- (iii) two individuals who represent coal mine operators;
- (iv) one individual who represents an industry trade association;
- (v) two individuals from local law enforcement agencies or emergency medical service providers;

- (vi) three individuals who have expertise in one or more of the following:

- (A) seismology;

- (B) mining engineering;

- (C) mine safety; or

- (D) another related subject; and

- (vii) two individuals from entities that provide mine safety training.

(b) The nonvoting members of the council are:

- (i) the commissioner or the commissioner's designee;

- (ii) the executive director of the Department of Natural Resources or the executive director's designee;

- (iii) the commissioner of the Department of Public Safety or the commissioner's designee;

- (iv) a representative of the Mine Safety and Health Administration selected by the Mine Safety and Health Administration; and

- (v) a representative of the federal Bureau of Land Management selected by the federal Bureau of Land Management.

(3) (a) Except as required by Subsection (3)(b), a voting member shall serve a four-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the time of appointment of the initial voting members of the council, adjust the length of terms of the voting members to ensure that the terms of voting members are staggered so that approximately half of the voting members are appointed every two years.

(4) (a) The commissioner shall terminate the term of a voting member who ceases to be representative as designated by the voting member's original appointment.

(b) If a vacancy occurs in the voting members, the commissioner shall appoint a replacement for the unexpired term after soliciting recommendations from the council

members.

(5) (a) The council shall meet at least quarterly.

(b) A majority of the voting members constitutes a quorum.

(c) A vote of the majority of the members of the council when a quorum is present constitutes an action of the council.

(6) (a) The commissioner or the commissioner's designee is the chair of the council.

(b) The commission shall staff the council.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) The council shall advise and make recommendations to the commission, the office, and the Legislature regarding:

(a) safety of coal mines located in Utah;

(b) prevention of coal mine accidents;

(c) effective coal mine emergency response;

(d) coal miner certification and recertification; and

(e) other topics reasonably related to safety of coal mines located in Utah.

Amended by Chapter 286, 2010 General Session

40-2-204. Coal Miner Certification Panel created -- Duties.

(1) There is created within the office the "Coal Miner Certification Panel."

(2) The panel consists of:

(a) the commissioner or the commissioner's designee; and

(b) at least eight other members appointed by the commissioner with equal representation and participation from:

(i) management of coal mine operations; and

(ii) hourly coal mining employees.

(3) A member appointed by the commissioner shall:

(a) have at least five years' experience in coal mining in this state;

(b) administer the certification test to an applicant referred to in Section 40-2-402;

(c) consult with the commission about applicant qualifications specified in Section 40-2-402;

(d) meet when directed by the commissioner or the commissioner's designee; and

(e) hold office at the pleasure of the commissioner.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

63A-3-107.

Amended by Chapter 286, 2010 General Session

40-2-301. Commission and office responsibilities.

- (1) The commissioner shall:
 - (a) direct the state's efforts to promote coal mine safety; and
 - (b) participate with the Mine Safety and Health Administration in an investigation of a major coal mine accident in Utah.
- (2) The commission shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (a) a system consistent with Section 40-2-302 to receive, evaluate, and act on a report of an alleged unsafe condition at a coal mine; and
 - (b) requirements for a coal mine operator regarding notification of a coal mine accident as part of a coal mine operator's emergency response plan.
- (3) The office may:
 - (a) conduct one or more studies to promote coal mine safety;
 - (b) cooperate with educational and other organizations to promote mining engineering and mine safety training;
 - (c) establish a cooperative relationship with the Mine Safety and Health Administration to promote coal mine safety in Utah;
 - (d) serve as the lead state agency in developing and implementing state and local response and communication plans for major coal mine accidents in Utah; and
 - (e) implement the notification requirements established under Subsection (2)(b).

Enacted by Chapter 113, 2008 General Session

40-2-302. Reporting of an unsafe condition in coal mines -- Adverse action prohibited.

- (1) Subject to the other provisions of this section, upon the office's receipt of information from a person of a possible unsafe condition in a coal mine located in Utah, the office may:
 - (a) notify the federal Mine Safety and Health Administration;
 - (b) notify another appropriate federal, state, or local government agency;
 - (c) contact the operator of the coal mine;
 - (d) refer the information to the council on a confidential basis; or
 - (e) take any other authorized action.
- (2) The commission, council, or office may not disclose or otherwise make public the identity of a person who reports a possible unsafe condition in a coal mine located in Utah unless that person authorizes the commission, council, or office to disclose the person's identity.
- (3) A coal mine operator may not take adverse action against a person because that person:
 - (a) reports an alleged unsafe mine condition; or
 - (b) testifies, assists, or participates in any manner in an investigation, proceeding, or hearing under this chapter.

Enacted by Chapter 113, 2008 General Session

40-2-303. Annual report on coal mine safety.

(1) By October 1 of each year, the commission, office, and council shall compile and submit to the governor and the Legislature a comprehensive report of the status of coal mine safety within the state for the immediately preceding calendar year.

(2) The report required by this section shall include:

(a) a compilation of major coal mine accidents or other coal mine emergencies within the state during the calendar year;

(b) a statement of actions by the commission, office, or council to implement this chapter;

(c) without a breach in confidentiality, a summary of reports of alleged unsafe conditions received by the office, with a statement of the office's responses;

(d) recommendations for additional action to promote coal mine safety; and

(e) any other items the commission, office, and council consider appropriate.

Enacted by Chapter 113, 2008 General Session

40-2-401. Necessity of certificate.

(1) A person may not work in an occupation referred to in Section 40-2-402 unless granted a certificate by the commission.

(2) (a) (i) The commission may grant a temporary coal mine foreman certificate or a temporary coal mine surface foreman certificate to an applicant who is:

(A) recommended by a coal mine; and

(B) interviewed and found competent by two panel members.

(ii) A certificate granted under Subsection (2)(a)(i) remains in effect until:

(A) the next scheduled certification test;

(B) the person is retested; or

(C) the commission terminates the certificate.

(b) (i) The commission may grant a surface foreman certificate to a current holder of an underground mine foreman certificate, if the applicant has three years of varied surface mining experience.

(ii) A surface foreman certificate applicant may receive credit for surface experience in any other industry that has substantially equivalent surface facilities, if the applicant has performed or is presently performing the duties normally required of a surface foreman.

(3) (a) The commission shall collect a fee described in Subsection (3)(b) for each temporary certificate.

(b) The commission shall establish the fee by following Section 63J-1-504.

(4) (a) An owner, operator, contractor, lessee, or agent may not employ a worker in any occupation referred to in Section 40-2-402 who is uncertified.

(b) The certificate shall be on file and available for inspection to interested persons in the office of the coal mine.

(5) The commission shall grant a certificate to an applicant referred to in Section 40-2-402 who:

- (a) passes the certification test administered by the panel; and
- (b) meets the qualifications specified in Section 40-2-402.
- (6) (a) The commission may grant a certificate to an applicant involved in gilsonite or other hydrocarbon mining as provided by rule.
- (b) The commission shall enact rules governing the certification procedure, test, and qualifications for applicants involved in gilsonite or other hydrocarbon mining.
- (7) The commission may by rule require certification and recertification of other coal mine occupations, including the certification of a new coal miner.

Amended by Chapter 183, 2009 General Session

40-2-402. Certification requirements.

- (1) The commission shall collect a fee for:
 - (a) the taking of a certification test; or
 - (b) the retaking of one or more sections of a certification test.
- (2) (a) The commission shall establish fees by following Section 63J-1-504.
- (b) Notwithstanding Section 63J-1-504, the commission:
 - (i) shall retain the fees as dedicated credits; and
 - (ii) may only use the fees to administer the certification test.
- (3) An applicant who fails any section of the certification test may retake that section of the test.
- (4) (a) An applicant who wishes to obtain a mine foreman certificate shall have at least four years varied underground coal mining experience, of which:
 - (i) two years' experience may be credited to a mining engineering graduate of an accredited four-year college; or
 - (ii) one year's experience may be credited to a graduate of a two-year course in mining technology.
- (b) (i) An applicant who wishes to obtain a surface foreman certificate shall have at least three years of varied surface experience.
- (ii) The commission may grant a surface foreman certificate applicant credit for surface experience in any other industry that has substantially equivalent surface facilities.
- (c) An applicant who wishes to obtain a fire boss certificate shall have at least two years of underground coal mining experience, of which:
 - (i) one year's experience may be credited to a mining engineering graduate of an accredited four-year college; or
 - (ii) six months' experience may be credited to a graduate of a two-year course in mining technology.
- (d) An applicant who wishes to obtain an underground mine electrician certificate shall have at least one year of varied electrical experience as specified in 30 C.F.R. Sec. 75.153.
- (e) An applicant who wishes to obtain a surface mine electrician certificate shall have at least one year of varied surface electrical experience as specified in 30 C.F.R. Sec. 77.103.
- (5) A certificate granted under Section 40-2-401 and this section shall expire if the certificate holder ceases to work in the mining industry or a mine related industry for

more than five consecutive years.

Amended by Chapter 183, 2009 General Session